

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MARK A. FREGIA,

Plaintiff,

v.

YUCUI CHEN, *et al.*,

Defendants.

Case No. 1:20-cv-01024-ADA-EPG (PC)

ORDER GRANTING, IN PART,  
PLAINTIFF'S MOTION FOR AN  
EXTENSION OF TIME TO FILE  
OBJECTIONS TO FINDINGS AND  
RECOMMENDATIONS

(ECF No. 111).

On August 2, 2023, Plaintiff filed a request for an extension of time to file objections to the Court's July 14, 2023 findings and recommendations. (ECF No. 111). Plaintiff states that he received the Court's findings and recommendations on July 20, 2023, and so he had until August 3, 2023, to file objections. (*Id.*, p. 1). Plaintiff seeks an additional ten-day extension to file objections. (*Id.*, p. 2). Plaintiff apparently relies on the prison mailbox rule, which states that a prisoner's pleading or filing is "deemed filed when he hands it over to prison authorities for mailing to the relevant court." *Houston v. Lack*, 487 U.S. 266, 276 (1988); *Huizar v. Carey*, 273 F.3d 1220, 1222 (9th Cir. 2001). "The prison mailbox rule applies to outgoing legal filings or documents sent by Plaintiff, not to incoming legal filings or documents served on Plaintiff." *Scott v. Palmer*, No. 1:09-cv-01329-LJO-SKO (PC), 2014 WL 6685813, at \*2 (E.D. Cal. Nov. 26,

2014). Because the findings and recommendations were filed and conventionally served to Plaintiff on July 14, 2023, Plaintiffs objections were due July 31, 2023—not August 3, 2023. See Fed. R. Civ. P. 6(d) (extending service time by three days where service is made by mail). Based on this date, the Court will grant Plaintiff a ten-day extension to file objections to the Court’s findings and recommendations.

Accordingly, IT IS ORDERED that:

1. Plaintiff shall file his objections to the Court’s findings and recommendations (ECF No. 107) by no later than August 10, 2023.
2. In granting this extension, the Court **does not** extend Plaintiff’s deadline to respond to Defendants’ motion for summary judgment. **As ordered on July 14, 2023, Plaintiff shall file a response or statement of non-opposition to Defendants’ motion by no later than September 12, 2023.** (See ECF No. 107, p. 12) (“Plaintiff shall file his opposition to Defendants’ motion for summary judgment within sixty-days following the date of this order.”).

IT IS SO ORDERED.

Dated: August 7, 2023

/s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE